



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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THE TRUSTEES OF THE NEW YORK STATE  
NURSES ASSOCIATION PENSION PLAN,

Petitioner,

-against-

21-cv-8330 (LAK)

WHITE OAK GLOBAL ADVISORS LLC,

Respondent.

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**ORDER**

LEWIS A. KAPLAN, *District Judge.*

Having found no proper basis for vacating the arbitrator's determination that White Oak engaged in multiple prohibited transactions and breached its fiduciary duties under ERISA and the parties' investment management agreement, the Court's remaining inquiry concerns the awarded relief.

In moving to confirm the arbitration award, petitioner argues that the arbitrator "awarded the return of the Plan's asset valued at \$96,213,778.83." While the Final Award declares that "the TOTAL of all plan assets as of May 19, 2021 is \$96,213,788.83," it orders White Oak to disgorge the Plan assets' net asset value ("NAV") "as of [the] date of this FINAL AWARD" which is August 4, 2021. Respondent argues that the NAV of the Plan's investments with White Oak "was considerably less than \$96 million" as of that latter date.

The parties shall file supplemental memoranda on the following questions of law on or before February 25, 2022.

1. Is there a "final" award before the Court?
2. Assuming that (1) there is, (2) it orders disgorgement of the Plan assets' NAV as measured on August 4, 2021, and (3) fails to specify the NAV as of

that date, does the Federal Arbitration Act permit the Court to determine the proper NAV?

3. May the Court order a clarification remand to the Arbitrator to:
  - a. Determine the Plan's NAV on August 4, 2021?
  - b. Specify which assets are to be disgorged in kind and the dollar amount of cash disgorgement?

The parties' respective memoranda are not to exceed ten double-spaced pages and may only address the above questions.

SO ORDERED.

Dated: February 10, 2022



Lewis A. Kaplan  
United States District Judge